

section 5(b)(8) of the Shipping
Act of 1984 and

5.4, and Agreement action governing such contracts, any party may take independent action on any matter within the scope of the authority conferred by this Agreement, by complying with the following procedures:

(1) The party proposing to take independent action ^{shall} ~~will~~ give the Secretary ~~a minimum of~~ ten (10) calendar days' advance written notice of the precise tariff rate or service item it proposes to implement by independent action. Notice to the Secretary must be by electronic text transmission or other writing. The notice must state the date on which the proposal is to become effective; but such effective date may not be earlier ^{or later} than ten (10) ^{calendar} days after receipt of the notice by the Secretary, ^{except as otherwise required by FMC regulations in the case of a new or increased rate.} ~~or earlier than permitted by the Shipping Act of 1984.~~ Receipt of such notice shall be the day it is actually received at the Secretary's office, except that if the notice is received at the Secretary's office after regular business hours or on a weekend or holiday, when the Secretary's office is officially closed, receipt shall be deemed to be as of the next regular business day.

(2) The Secretary will promptly docket the proposed independent action for consideration by the Agreement. If the Agreement does not adopt the rate or service item stated in the notice for all Agreement parties by the effective date

specified in the notice, it will be published by the Agreement on behalf of such party and filed with the FMC to be effective no later than the date specified in the notice.

(3) Any party may, in addition to the ten (10) day independent action provided herein, ~~follow~~ ^{elect to adopt} an independent action initiated by another party by giving written notice to the Secretary. Such "following" independent action may not have an earlier filing or effective date than the initial independent action; and it must be identical to the initial independent action.

(4) Any notice of independent action must be taken in the name of and with the express authority of a designated senior executive of the party proposing such action or one of his designated alternates. The designated senior executive shall be a person located at the party's corporate headquarters who regularly exercises control over the party's pricing activities in the Pacific trades, and his designation shall be filed by electronic text transmission or other writing with the Secretary. Parties may designate no more than two (2) alternates who also shall be located at the party's corporate headquarters, and the names of the alternates also shall be filed in writing with the Secretary.

(5) An independent action may be withdrawn by any party taking such action at any time prior to its effective date or, after its effective date, it may be cancelled upon written